

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LARRY D. LEE, JR.,

Plaintiff,

VS.

G. B. INDUSTRY CO., INC. and

G. B. INDUSTRY, L.P.,

Defendants.

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CIVIL ACTION NO. H-09-1929

ORDER OF DISMISSAL

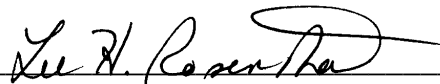
On August 27, 2009, the defendant, G.B. Industry Co., L.P. (“GBI”), moved to dismiss this suit filed by its former employee, Larry D. Lee, alleging racial discrimination in employment. GBI asserted that Lee had not filed any complaint with the Equal Employment Opportunity Commission or received a right to sue letter. GBI asserted that it had received no notice from the EEOC of any complaint from Lee. GBI moved to dismiss on the ground that Lee’s failure to file with (Docket Entry No. 7). Lee has not filed a response.

The record shows that Lee filed this suit, pro se, under Title VII, 42 U.S.C. § 2000 *et seq.* Lee alleged that in June 2007, he was working on a ladder that was not secured. He alleged that GBI secured ladders for white employees but not for black employees. He also alleged that he was fired after he was injured. He asked that GBI be ordered to stop discriminating and that he be awarded other relief; he did not ask for reemployment. (Docket Entry No. 1).

The law is clear that to assert a Title VII complaint in federal court, a plaintiff must first file a timely complaint with the administrative agency. *See McClain v. Lufkin Indus., Inc.*, 519 F.3d 264, 273 (5th Cir. 2008) (“Title VII requires employees to exhaust their administrative remedies

before seeking judicial relief. Private sector employees must satisfy this requirement by filing an administrative charge with the EEOC. The charge enables the EEOC to investigate and, if appropriate, negotiate a resolution with an employer. Only after administrative efforts terminate may the employee sue the employer in federal court.” (citations omitted)); *Floyd v. Amite County Sch. Dist.*, – F.3d –, 2009 WL 2620290, at *3 (5th Cir. 2009) (“In order to file suit under Title VII, 42 U.S.C. § 2000e-5 requires that a plaintiff file a charge of discrimination with the EEOC within one hundred and eighty days after the alleged unlawful employment practice occurred.”); *Thomas v. Atmos Energy Corp.*, 223 Fed. Appx. 369, 376 (5th Cir. 2007) (“The filing of an administrative complaint is a prerequisite to a Title VII suit.”). Because Lee has failed to exhaust his administrative remedies before coming to federal court, this case is dismissed, without prejudice.

SIGNED on October 7, 2009, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge